GEGAH OPTIMA RESOURCES SDN BHD v. THE STATE MINERALS MANAGEMENT AUTHORITY, SARAWAK & ORS

HIGH COURT SABAH & SARAWAK, KUCHING
AZHAHARI KAMAL RAMLI J
[JUDICIAL REVIEW NO: KCH-13NCVC-11-11-2017]
13 FEBRUARY 2019

ADMINISTRATIVE LAW: *Judicial review – Certiorari and mandamus – Application against decision of State Minerals Management Authority ('authority') rejecting application for mining leases – Whether authority empowered to approve or refuse to approve application for mining lease – Whether applicant should be given opportunity to be heard despite no provision under Mineral Ordinance 2004 – Whether right to be heard conferred under common law – Failure to state reason for rejection in letter of refusal – Whether gave rise to inference that relevant fact not considered – Whether decision flawed with procedural impropriety – Whether authority breached rule of natural justice – Whether decision ought to be quashed*

The applicant was a holder of a general prospecting licence, granted under s. 22 of the Mineral Ordinance 2004 ('Ordinance'), conferring upon the applicant the right to prospect for metal and mineral in the area from 23 May 2014 until 22 May 2016. On 24 November 2015 and 5 May 2016, the applicant submitted four applications to the first respondent to apply for mining leases over the areas A, B, C and D at Tutuh, Baram, Miri for a term of 20 years under s. 44 of the Ordinance. *Vide* a letter dated 16 May 2017, the first respondent rejected the applicant's application without giving any reason. The applicant thus requested for a review of the decision by the fourth respondent and for mining leases to be granted to the applicant over a smaller area. By a letter dated 21 August 2017, the first respondent again rejected the applicant's application for mining leases without giving any reason. Hence, the applicant sought judicial review seeking, *inter alia*: (i) an order of *certiorari* to quash the decision of the first respondent as contained in the letter dated 21 August 2017; (ii) and order of *mandamus* to compel the respondent or any of them to approve the grant of mining leases to the applicant over part of the areas under the applicant's general prospecting licence; and (iii) alternatively, an order of *mandamus* to compel the respondents or any of them to reconsider and re-determine the applicant's application for the grant of mining leases over part of the areas under the applicant's general prospecting licence after the applicant had been afforded a fair and reasonable opportunity to: (a) remedy or submit any necessary documents in relation to the applications of any of those document were not in order or insufficient; and (b) make representations in relation to any of the

comments and recommendations in the report of the third respondent under s. 44 of the Ordinance, if any of those comments and recommendations was adverse to the applicant. The main issue for determination was whether the decision made by the first respondent ought to be quashed for breach of natural justice.

Held (allowing application):

(1) Section 44(5) of the Ordinance provides that the first respondent was empowered to approve or refuse to approve an application for mining lease. Notwithstanding the fact that the Ordinance does not provide that the applicant should be given an opportunity to be heard, it is trite that common law imposes a duty on the first respondent to hear the applicant before making the decision. This is especially so when sub-s. (4) makes it mandatory for the authority to verify whether the applicant had complied with the requirement of the Ordinance and was technically and financially qualified to develop and mine the area for which the applicant relate. (para 14)

(2) The relevant agency which was responsible to provide information to the authority for the purpose of considering an application for a mining lease under s. 32(4) of the Ordinance, was aware of the fact that part of the area they were applying for was within the forest reserve. Notwithstanding that, the Director of Lands and Surveys had recommended for a provisional approval to the applicant, subject to the compliance of the conditions contained in the memorandum. In the circumstances, the applicant's right to be granted a mining license was not affected. (para 17)

(3) However, the decision to be made by the first respondent might affect his right under s. 32. Hence, any decision to be made in respect of their application must be made fairly. The applicant ought to be given the opportunity to convince the first respondent that s. 32(2) and/or (3) should be invoked by the first respondent. Unfortunately, there was no such opportunity afforded to the applicant. The letter of refusal of the application did not state any reason for the refusal, giving rise to an inference that the first respondent did not consider any relevant fact when deciding on the application. Even if it could be argued that the first respondent had a valid ground in rejecting the application, the fact remained that those reasons were not conveyed to the applicant before the letter was issued. As such, the decision was flawed with procedural impropriety. (paras 17 & 18)

(4) The first respondent should provide the reasons for its refusal to grant the mining lease to the applicant. The absence of any reasons in the letter would trigger a reasonable inference that the first respondent had not exercised its discretion in accordance with the law. Therefore, the first respondent had breached the rule of natural justice in making its decision. This was a proper case where the decision should be quashed. (paras 24 & 25)

Case(s) referred to:

Datuk Justine Jinggut v. Pendaftar Pertubuhan [2012] 1 CLJ 825 CA ***(refd)***

Hong Leong Equipment Sdn Bhd v. Liew Fook Chuan & Other Appeals [1997] 1 CLJ 665 CA ***(refd)***

Ketua Pengarah Kastam v. Ho Kwan Seng [1975] 1 LNS 72 FC ***(refd)***

Majlis Perbandaran Pulau Pinang v. Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor Dengan Tanggungan [1999] 3 CLJ 65 FC ***(refd)***

Mohamad Hassan Zakaria v. Universiti Teknologi Malaysia [2017] 10 CLJ 36 CA ***(refd)***

Pembinaan Batu Jaya Sdn Bhd v. Pengarah Tanah Dan Galian Selangor & Anor [2016] 5 CLJ 250 CA ***(refd)***

Ranjit Kaur S Gopal Singh v. Hotel Excelsior (M) Sdn Bhd [2010] 8 CLJ 629 FC ***(refd)***

Legislation referred to:

Minerals Ordinance 2004 (Sarawak) (Cap 56), ss. 22, 32(2), (3)(a), (4), 44(1), (2), (3), (4), (5)(b), (6)

For the applicant - Andy Tan & Albert Tang; M/s Andy & Assocs
For the respondents - Azreen Fasya; SLO, Sarawak

*[**Editor's note:** On 31 March 2020, the Court of Appeal in Civil Appeal No. Q-01(NCVC)(A)-143-03/2019 allowed the appeal by the State Minerals Management Authority, Sarawak & Ors and set aside the decision of the High Court herein.]*

Reported by S Barathi

JUDGMENT

Azhahari Kamal Ramli J:

[1] In this judicial review, the applicant seeks for the following reliefs:

(i) An order of *certiorari* to quash the decision of the first respondent as contained in its letter dated 21 August 2017 rejecting the applicant's application for mining leases over part of the areas under the applicant's General Prospecting Licence No. 01/2014 at Tutoh, Baram, Miri.

(ii) An order of *mandamus* to compel the respondents or any of them to approve the grant of mining leases to the applicant over part of the areas under the applicant's General Prospecting Licence No. 01/2014 at Tutoh Baram, Miri and more particularly described as areas B, C and D as shown in the plan annexed to this application and marked as "A".

(iii) Alternatively, an order of *mandamus* to compel the respondents or any of them to reconsider and re-determine the applicant's application for the grant of mining leases over part of the areas under the applicant's

General Prospecting Licence No. 02/2014 at Tutuh, Baram, Miri and more particularly described as areas B, C and D as shown in the plan annexed to this application and marked as "A" after the applicant has been afforded a fair and reasonable opportunity to:

(a) Remedy or submit any necessary documents in relation to the said applications if any of those documents is not in order or insufficient; and

(b) Make representations in relation to any of the comments and recommendations in the report of the third respondent under s. 44(1) of the Mineral Ordinance 2004, if any of those comments and recommendation is adverse to the applicant.

(iv) further or alternatively, damages to be assessed.

Brief Facts Of The Case

[2] The undisputed fact of the case revealed that the applicant is a holder of a General Prospecting Licence No. 01/2014 dated 23 May 2014 granted under s. 22 of the Mineral Ordinance 2004, covering an area of approximately 15,346 hectare at Sg. Tutuh, Baram, Miri. The general prospecting licence confers upon the applicant the right to prospect for metal and mineral in the said area from 23 May 2014 until 22 May 2016. On 24 November 2015 and 5 May 2016 the applicant submitted four applications to the first respondent to apply for mining leases over the areas A, B, C and D at Tutuh, Baram, Miri for a term of 20 years under s. 44 of Mineral Ordinance 2004. *Vide* letter dated 16 May 2017, the first respondent rejected the applicant's application without giving any reason. By three letters dated 13 June 2017, 24 July 2017 and 5 September 2017, the applicant requested for a review of the decision dated 16 May 2017 by the fourth respondent and for mining leases to be granted to the applicant over a smaller area ie, Area B, C and D.

By a letter dated 21 August 2017, the first respondent again rejected the applicant's application for mining leases without giving any reason.

The Applicant's Case

[3] It is contended by the applicant that as a holder of the general prospecting licence, the applicant had duly complied with the requirement of the licence and paid the necessary fees. It is also averred that they had incurred exploration and prospecting expenses amounting to a total sum of RM6,082,686.

[4] The applicant contended that the decision of 21 August 2017 was totally unfair and made in breach of natural justice. It is further argued that the applicant has a legitimate expectation that the respondent or any of them will consider the applicant's application fairly and in accordance with the rule of natural justice. It was also contended that the respondent or any of them in making the said decision of 21 August 2017 had acted irrationally or had taken into account irrelevant consideration or had failed to take into account relevant consideration or had asked themselves the wrong question or had misconstrued the provision of the Mineral Ordinance 2004 (Cap 56) (the said Ordinance).

The Respondent's Case

[5] For the respondent' it was contended that:

(i) there is no illegality on the part of the first respondent in refusing to issue the mining lease to the applicant as it was done pursuant to the power conferred on the first respondent under s. 44(5)(b) of the said Ordinance.

(ii) the first respondent did not act irrationally in refusing to issue the mining licence because, among other things:

(a) the area within which the mining licence was applied would affect the existing gazetted Batu Belah Forest Reserve (Permanent Forest Reserve) G.N No 1144 of 16 December 1936,

(b) the area within which the mining licence was applied would affect Marudi water catchment area, long panai (gravity feed) water catchment area as well as rural water intake point.

(c) the refusal is also to avoid destruction of forest resources and flora and fauna.

(iii) The first respondent did not commit any procedural impropriety in rejecting the applicant's application for the mining licence because it was done in compliance with s. 44(5) and (6) of the said Ordinance.

[6] It must be noted that the reasons in para. ii (a), (b) and (c) above were only 'communicated' to the applicant through the affidavit in opposition of this application affirmed by Dr Wan Lizozman bin Wan Omar affirmed on 17 August 2017 at para. 6. (encl. 40). It is also revealed in the said affidavit that the Director of Lands and Surveys had, by their official memorandum reference 14/HQ/MT/1/2016 (4D) dated 21 February 2017, made certain recommendations to the Setiausaha Tetap Kementerian Perancangan Sumber dan Alam Sekitar regarding the applicant's application.

Decision Of The Court

[7] The main issue that needs to be determined is whether the decision made by the respondent ought to be quashed for breach of natural justice.

[8] First and foremost, it must be noted that the decision dated 21 August 2017 was made pursuant to s. 44 of the said Ordinance. For ease of reference s. 44 is hereby reproduced:

> 44 (1) An application for a mining lease shall be made to the Authority, and upon receipt thereof the Secretary shall transmit the same to the Director, for his comments and recommendations.
>
> (2) An application for a mining lease shall include a prefeasibility study which hall include:
>
> (a) a general description of the proposed mining scheme;
>
> (b) the expected commencement date of mineral production (to be stated as the number of months from the date of issuance of the mining lease);
>
> (c) a schedule of estimated annual raw ore production for the term of the mining lease;
>
> (d) such information as may be prescribed; and
>
> (e) such other information as the Authority may reasonably require for the discharge of its functions in relation to the application.
>
> (3) Upon receipt of the comments and recommendations of the Director under subsection (1), the Authority shall consider the application.
>
> (4) In considering an application for a mining lease, the Authority shall verify that the applicant-
>
> (a) has complied with the requirements of this Ordinance; and
>
> (b) is technically and financially qualified to develop and mine the area to which the application relates
>
> (5) The Authority shall subject to section 50 either:
>
> (a) approve the application:
>
> (i) confirming that the application has complied with the requirement of this Ordinance; and
>
> (ii) specifying the terms and conditions subject to which the lease is to be granted; or
>
> (b) refuse to approve the application.

(6) The Secretary shall notify the applicant and the Director in writing of its decision under subsection (5)

(7) …

(8) …

[9] It is obvious from s. 44 that the authority, namely the first respondent, is given the power to decide on an application for a mining lease, subject to the requirement of sub-s. (2), (3) and (4) thereof. In other words, the exercise of the first respondent's power must be done within the provision of the said Ordinance. In this respect, the case of *Ketua Pengarah Kastam v. Ho Kwan Seng* [1975] 1 LNS 72; [1977] 2 MLJ 152 the Federal Court stated at p. 154 that:

> … the rule of natural justice that no man may be condemned unheard should apply to every case where an individual is adversely affected by an administrative action, no matter whether it is labelled "judicial", "*quasi* judicial" or "administrative" or whether or not the enabling statutes make provision the hearing.

It was further stated that:

> … in particular, the silence of the statute afford no argument for excluding the rules for the justice of the common law will supply the omission of the legislature.

[10] Further in the case of *Ranjit Singh S Gopal Singh v. Hotel Excelsior (M) Sdn Bhd* [2010] 8 CLJ 629, the Federal Court opined that:

> Historically, judicial review was only concerned with the decision making process where the impugned decision is flawed on the ground of procedural impropriety. However, over the years, our courts have made inroad into this field of administrative law. *Rama Chandran* is the mother of all those cases. The Federal Court in a landmark decision has held that the decision of an inferior tribunal may be reviewed on the grounds of "illegality", "irrationality" and possibly "proportionality" which permits the court to scrutinise the decision not only for process but also for substance. It allowed the courts to go into the merit of the matter. Thus the distinction between review and appeal no longer holds.

[11] Connected to this is the need for the decision maker to give reason for its decision. In the case of *Hong Leong Equipment Sdn Bhd v. Liew Fook Chuan & Other Appeals* [1997] 1 CLJ 665; [1996] 1 MLJ 481 at p. 735 (CLJ); p. 538 (MLJ) the Court of Appeal ruled that:

> Of course, he may not be procedurally compelled to furnish them: see *Sanjiv Oberoi.* But if he gives no reasons or inadequate reasons, then it is open for a court to conclude that he had no good reason for the decision he did …

[12] Hence in *Pembinaan Batu Jaya Sdn Bhd v. Pengarah Tanah dan Galian Selangor & Anor* [2016] 5 CLJ 250, Abang Iskandar JCA (as he then was) opined that:

> [45] … One of the fundamental feature in modern administrative law jurisprudence has been the growing need for the public decision maker to give reasons for his decision. It may be inconvenient to do so. But it is an indivisible component in all decision making process. We find that every decision, both good and bad, is driven to such conclusion by a reason.

[13] Also in *Datuk Justine Jinggut v. Pendaftar Pertubuhan* [2012] 1 CLJ 825; [2012] 3 MLJ 212 the Court of Appeal opined that:

> Thus if no reason is given by the respondent, it is open for this court to conclude that he had no good reason is as much as it is open for us to conclude that the respondent had not exercised his discretion in accordance with the law.

[14] In our present case, s. 44(5) of the said Ordinance provides that the first respondent is empowered to approve or refuse to approve an application for mining lease. Notwithstanding the fact that the said Ordinance does not provide that the applicant should be given an opportunity to be heard, it is now trite that common law imposes a duty on the first respondent to hear the applicant before making the decision. This is especially so when sub-s. 4 makes it mandatory for the authority to verify whether the applicant has complied with the requirement of the Ordinance and is technically and financially qualified to develop and mine the area for which the applicant relates.

[15] In this regard it was submitted by learned counsel for the applicant that s. 32(2) and (3) do not prohibit the approval of a mining license over alienated land or reserve land. Section 32(2) and (3) read:

> (2) Where the land in respect of which a prospecting licence has been granted consists, wholly or partly, of alienated land, the right of the holder of the licence to be granted mining lease or certificate over such land shall be subject to the condition-
>
> (a) that the holder of the licence is the registered owner of the land; or
>
> (b) that the holder of the licence will acquire the land and the cost of such acquisition has been paid; and
>
> (c) that the authority has recommended that the application be approved.

(3) Where the land in respect of which a prospecting licence has been granted consists, wholly or partly, of reserved land or reserved forest area, the right of the holder of the licence to be granted mining lease or certificate over such land shall be subject to the condition:

(a) that the reservation has been revoked; and

(b) that the Authority has recommended that the application for mining lease or certificate be approved.

[16] With regards to the applicant's application for the mining lease, the Director of Lands and Surveys Department had made certain recommendations to the Setiausaha Tetap, Kementerian Perancangan Sumber dan Alam Sekitar *vide* his official memorandum. (see exh. WL5, annexed to the affidavit in opposition of Dr Wan Lizozman bin Wan Omar). It is interesting to note that at para. 4 of the memorandum, the Director of Lands and Survey had made a specific recommendation which reads:

4. It is recommended that a 'Provisional Approval' be given to the application of a mining lease subject to the company be required to prepare and submit a Pre-Feasibility Report to the Authority for consideration and approval to determine the term of the mining lease.

[17] It must also be noted that the Director of Lands and Surveys had also recommended that "the areas of land affected under the gazetted Batu Belah Forest Reserve (Permanent Forest Estate) G.N No. 1144 of 16 December 1936 needs to be excised from the gazettal (as required under s. 32(3)(a) of the Minerals Ordinance 2004). In other words, the relevant agency which is responsible to provide information to the authority for the purpose of considering an application for a mining lease under s. 32(4) of the said Ordinance, is aware of the fact that part of the area they are applying for is within the forest reserve. Notwithstanding this fact, the Director of Lands and Surveys had recommended for a provisional approval to the applicant, subject to the compliance of the conditions contained in the memorandum. In the circumstances, the applicant's right to be granted a mining licence is not affected. But the decision to be made by the first respondent may affect his rights under s. 32. Hence any decision to be made in respect of their application must be made fairly, especially when the applicant had already spent RM6,082,686 as exploration and prospecting expenses. The applicant ought to be given the opportunity to convince the first respondent that s. 32 (2) and/or (3) should be invoked by the first respondent.

[18] Unfortunately, there is no such opportunity afforded to the applicant. The refusal of the application came in the form of a letter without being heard. The said letter also did not state any reason why such application was refused. Even if the reason for the rejection was stated in the affidavit in

opposition of Dr. Wan Lizozwan bin Wan Omar dated 17 August 2018 those reasons were never stated in the letter dated 21 August 2017 giving rise to an inference that the first respondent did not consider any relevant fact when deciding on the application. Even if it can be argued that the first respondent has a valid ground in rejecting the application, the facts remain that those reasons were not conveyed to the applicant before the letter was issued. As such, the decision was flawed with procedural impropriety.

[19] Section 44(5)(b) does not provide that the authority must give reasons for his refusal for any application for mining lease. The relevant question to be asked at this stage is whether, given the fact that the applicant was at the material time a holder of a general prospecting licence, the first respondent is obliged to give any reason for their refusal to grant the mining lease?

[20] In the case of *Majlis Perbandaran Pulau Pinang v. Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor Dengan Tanggungan* [1999] 3 CLJ 65, the Federal Court states:

> But it is well established that there are exceptions where the giving of reasons will be required as a matter of fairness and openness. These may occur through particular circumstances of a particular case. Or, as was recognised in *R v. Higher Education Funding Council; ex p Institute of Dental Surgery* [1994] 1 WLR 242 at p 263, there may be classes of cases where the duty to give reasons may exist in all cases of the class. Those cases may be defined by factors relating to the particular character or quality of the decision, as where they appear aberrant, or to factors relating to the particular character or particular jurisdiction of the decision-making body, as where it is concerned with matters of special importance, such as personal liberty. There is certainly a strong argument for the view that what were once seen as exception to a rule may now be becoming examples of the norm, and the cases where reasons are not required may be taking on the appearance of exceptions. But the general rule has not been departed from and their Lordships do not consider that the present case provides an appropriate opportunity to explore the possibility of such a departure. They are conscious of the possible re-appraisal of the whole position which the passing of the Human Right Act 1998 may bring about. The provisions of art. 6(1) of the Convention of Human Rights, which are now about to become directly accessible in national courts, will require closer attention to be paid to the duty to give reasons, at least in relation to those cases where a person's civil rights and obligations are being determined. But it is in the context of the application of that Act that any wide-reaching review of the position at common law should take place.

[21] It would appear that the duty to give reasons has now become part of a lawful decision-making process. However, this requirement should only be applied on a case to case basis. The principle in *Majlis Perbandaran Pulau Pinang v. Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor Dengan Tanggungan* (*supra*) had been considered and summarised by the Court of Appeal in *Mohamad Hassan Zakaria v. Universiti Teknologi Malaysia* [2017] 10 CLJ 36 per Mary Lim JCA at p. 54:

> [46] Without diminishing its importance and contributions to many respects in the law on judicial review and the law of bias, the Federal Court's decision in *Majlis Perbandaran Pulau Pinang* concerns the local authority's imposition of conditions to its approval of the respondent's application for planning permission. The facts are not really important for our present purpose, but the Federal Court's view on the principles of the duty to give reasons are. Generally, the principles that can be deduced from the Federal Court's decision on this issue may be summed up as follows:
>
> (a) the duty to give reasons depends on whether there is an express duty to do so;
>
> (b) where there is no express duty, the court should consider whether there is an implied obligation to state reasons;
>
> (c) if there is no express or implied obligation, is there power to give reason?
>
> (d) at common law, although there is no universal duty to give reasons, the trend is to give reasons;
>
> (e) this trend is consistent with current development towards an increased openness on matters of Government and administration;
>
> (f) the giving of reasons is a matter of fairness;
>
> (g) this trend proceeds on a case to case basis.

[22] As I have stated earlier, s. 44(5)(b) does not make it mandatory for the Director to state the reason for the refusal of the mining lease. There is no express duty to do so. Can it be said now that there is an implied duty of the Director to give reason?

[23] In the case of *Pembinaan Batu Jaya Sdn Bhd v. Pengarah Tanah dan Galian Selangor & Anor* (*supra*) it was stated that:

> But, we could not find any statute which contains express provisions that affirmatively prohibit a public officer, as a decision-maker, in the discharge of his public duty, from assigning any reason for his decision. Indeed, it would be most strange, if there is one such statute. We say so because it would defeat the essence of good governance and that it would not

promote accountability and owing up to responsibility in decision-making. As such, the silent in a statute requiring that a reason or reasons be given by the decision-maker ought not to be taken to mean there was therefore no duty to give reasons. The silence in the statute, on the duty to give reason for a decision, ought not to be made a cloak or a blanket under which the decision-maker could conveniently find refuge so that the rationale for his decision remains shrouded in mystery, privy only to himself, but not to the public at large, on whose behalf, he is entrusted to discharge that duty. That scenario would indeed be a contradiction in terms.

[24] In this case, the applicant, being a holder of a general prospecting licence, is just one step away from obtaining a mining lease. In fact s. 32(2) and (3) expressly state that his right to be granted a mining licence would be subject to certain conditions listed thereunder. On the other hand, s. 44(4) and (5) provide that the first respondent shall verify whether the applicant has complied with the requirements of the said Ordinance and is technically and financially qualified to develop and mine the area to which the application relates. Further, the applicant had invested a huge sum of monies in that area. Considering all these facts in a proper perspective, it is now imperative that the first respondent should provide the reasons for its refusal to grant the mining lease to the applicant. The absence of any reasons in the letter dated 16 May and 21 August 2017 would trigger a reasonable inference that the first respondent had not exercised its discretion in accordance with the law.

[25] Based on the fact of the present case, it is my considered opinion that the first respondent had breached the rule of natural justice in making its decision. This is a proper case where the decision should be quashed. Be that as it may, I must also state that the application for the mining lease is not a straightforward matter. This is reflected in s. 44(1), (2) and (4) of the said Ordinance whereby the approving authority is duty-bound to consider various issues including the technical aspect of the operation. I also take judicial notice that mining activities in any part of the world may have negative impact on the environment. While this court has the supervisory jurisdiction over the exercise of the administrative discretion of a decision-making body, it has no expertise on technical issues connected with the application such as the present case.

[26] Having considered the application, the affidavit evidence and submission by counsel, I find that there are merits in this application. It is hereby ordered that:

(i) an order of *certiorari* be issued to quash the decision of the first respondent as contained in its letter dated 21 August 2017 rejecting the applicant's application for mining leases over part of the areas under the applicant's General Prospecting Licence No. 01/2014 at 10 Tutoh, Baram, Miri; and

(ii) an order of *mandamus* be issued to the respondents or any of them to reconsider and re-determine the applicant's applications for the grant of mining leases over part of the areas under the applicant's General Prospecting Licence No. 01/2014 at Tutoh, Baram, Miri and more particularly described as areas B, C and D as shown in the plan annexed to this application and marked as "A" after the applicant has been afforded a fair and reasonable opportunity to:

(a) remedy or submit any necessary documents in relation to the said applications if any of those documents is not in order or insufficient; and

(b) make representations in relation to any of the comments and recommendations in the report of the third respondent under s. 44(1) of the Mineral Ordinance 2004, if any of those comments and recommendations is adverse to the applicant.

(iii) Cost of RM10,000 to the applicant subject to payment of allocator fee.